

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, October 17, 2016

I. MEETING CALLED TO ORDER BY: Andy Sikkema at 7:00 p.m.

ROLL CALL

Members Present: Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Kendell Milton, Bruce Ventura

Members Absent: Tom Mahaney

Staff Present: Dale Throenle (Planning Director/Zoning Administrator)

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Sikkema requested an item to be added to the agenda to discuss short term rentals. Item added would be VII.E.

Motion by Ventura, and seconded by Meister, to approve the agenda as amended.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

September 19, 2016

Motion by Milton, and seconded by Bohjanen, to approve the minutes as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

William Todd, 1075 Ortman Road – requested to speak in relation to item VII.D. He was deferred until that item on the agenda.

Jim Dunn, 3210 M-28 – looked for clarification on zoning for his three parcels. When he purchased the properties he was told they were residential, and residential only. He did not receive notification that his property had been changed to agricultural (AF) in 2008. He sought clarification from the Planning Commission as to how he can develop his property.

He also spoke in relation to short term rentals. He bought his property with the intent of not having short term rentals next to his property. He again asked for clarification from the Planning Commission on the direction to take on this subject.

Dick Arnold, 312 West Branch -- brought up the number of acres of agriculture property in the Township. He expressed concern on how development can occur on agriculture property – size of accessory buildings and number of buildings on the smaller agriculture lots. He asked that the Planning Commission to lower the square footage permitted on a property. He was also concerned with the requirement that if a building was built 60 feet from the lot line, the height of the building could be 60 feet. This would be unacceptable on smaller agriculture acreage.

He requested that additional surveys of the Township residents be considered in order to get more information on what the residents of the Township want. He expressed concern that if the citizens are not heard, then the Planning Commission determines direction. He also noted that the citizens of the Township do not participate in the process as they should.

He expressed concern about the signage on the highways throughout the Township. He described the passing lanes and the inconsistency along the highway. He also addressed the cross-hatched area heading north on US 41 at the intersection of M-28. The public is not paying attention to the cross-hatched area, and are using it as a right turn lane. This should be addressed to the Road Commission.

Deborah Mulcahey, 633 Lakewood Lane – asked the Planning Commission to look at priorities and how they are established. She expressed concern that the priorities have changed, and that priorities have changed based on a small minority of people within the Township.

Throenle added that Mr. Dunn’s properties are each 1/2 acre in size.

V. PUBLIC HEARINGS

Public hearings were deferred to agenda items VII.A and VII.B, respectively.

VI. PRESENTATIONS

None

VII. NEW BUSINESS

A. Ordinance 62 – Animal Control

Throenle introduced the ordinance to the Commission for consideration, and requested that the public hearing be opened for ordinance consideration.

Public Hearing

Deborah Mulcahey, 633 Lakewood Lane – stated she provided written comment along with her husband. Both are opposed to allowing chickens everywhere throughout the Township. She indicated 60 percent of the properties in the Township now allow for chickens. She indicated that if this passed, there would be nowhere in the Township that residents could live chicken-free. She stated that a majority of the residents in the Lakewood Lane area and the waterfront district said no to chickens in the 2013 community survey. She requested a review of this information to point out that some areas of the Township are opposed to having chickens in their districts.

Laurie Krzymowski, 741 Lakewood Lane – stated she is anti-chicken in residential areas. She expressed that she was, at one time, diagnosed with a spot on her lungs from residue found in the chicken coop that she played in as a child, even though the coop was cleaned and painted after the chickens were removed.

She also referred to a Center of Disease Control (CDC) report that was recently released that indicated an increase in salmonella in relation to chickens. She expressed

that we should limit our exposure for the quality of water, quality of health, and not increase the amount of salmonella in the community. She stated the information she referred to could be found on cdc.gov.

Commission Discussion

Bohjanen opened the discussion with a look at section 6.B on page four of the proposed ordinance. He asked that if you are in the AF district are you not required to have a kennel license. Sikkema replied that the license is still required, and Throenle confirmed.

Discussion followed concerning the verbiage of 6.B, and the item was modified to read: "Any owner who at any one time owns or harbors four or more dogs at a single location within the Township shall have a valid County kennel license posted on the premises."

Bohjanen addressed Section 8.A and Section 10.A as duplicated sections. Sikkema responded that they were in each section for a good reason; he asked Bohjanen which section would be most appropriate for the text to be retained. Discussion continued, with Ventura suggesting that sections 8, 9, and 10 be combined into one section. Sikkema responded that each section had a different function, with a suggestion to remove section 10.A and renumber 10.B to 10.A, and renumber 10.C to 10.B. Commissioners agreed.

Bohjanen requested a grammatical change in section 11.B.9. He requested that the phrase "closer than thirty feet to any residence" be changed to read "closer than thirty feet from any residence." Commissioners agreed.

Ventura asked Throenle if the penalties in Section 14 should be in the Township schedule of fees or if it should be in the ordinance. Throenle indicated it could be in either place. The difference would be the fee schedule would be part of the annual budget, where the ordinance language would have to be changed via public hearing, Planning Commission approval, and Township board approval. Throenle indicated the reason for the fee range in the ordinance is to provide a range for civil court consideration. He was unsure as to if the fee schedule could contain a range. No change in the document was requested.

Smith raised a question concerning puppies. If more than four pups were at a residence, would a kennel license be required? Throenle responded that he would interpret the ordinance to require the license if the pup was kept longer than four months. Discussion continued to determine if a change should be made to address the issue.

Ventura asked for a clarification on the licensing of dogs. Discussion followed as to what was considered a properly licensed dog. Throenle indicated the reason for item 5.B was to allow for new residents in the County to bring in their dogs without concern for relicensing until the calendar year expired.

Meister suggested changing item 5.B to read "current dog licenses issued by other jurisdictions". Commissioners agreed.

Ventura suggested making the sentence part of 5.A. Commissioners agreed, and

requested the renumbering 5.C to 5.B, 5.D to 5.C, and 5.E to 5.D.

Bohjanen mentioned that the Commission hears limited opinions during public comment. He stated that he did not know the statistics concerning chickens, especially since the only comments presented were from those that did not want chickens. He addressed the salmonella comments presented during the public hearing, and indicated he would want to defer the decision on the ordinance until he had time to read the latest CDC information. Ventura stated that salmonella is also prevalent in the wild bird population, especially finches at bird feeders.

Sikkema requested additional comments from the Commissioners; there were none. Bohjanen made a suggestion to defer the motion until he had time to review the CDC information. Sikkema asked if the item could be tabled. Throenle stated if the ordinance was tabled, then a new public hearing would not be necessary as it would be an extension of the process.

Discussion followed concerning the next direction for the ordinance.

Throenle asked if sending a link to the CDC information via email would be sufficient. Sikkema indicated that it would.

Bohjanen moved, and Ventura seconded the ordinance be tabled until the next meeting to allow time to review the latest CDC information.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Throenle asked for a motion to clarify which ordinance language would be brought before the Commission at the next meeting.

Meister moved, and Ventura seconded the ordinance language that will be presented at the next meeting will contain the changes already suggested.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

B. Ordinance 63 – Address Numbers

Throenle introduced the ordinance to the Commission for consideration, and requested that the public hearing be opened.

Public Hearing

No public hearing.

Commission Discussion

Sikkema brought up the size of the numbers on the mailboxes and signs. He suggested that the size be changed to two inches for the mailboxes and road-located signs. He suggested the language in Section 4.B be changed to “shall be displayed in numbers not less than two (2) inches ...”. Discussion followed, and Commissioners approved the change.

Ventura moved, and Bohjanen seconded that after holding a public hearing and considering public input, the Planning Commission recommends that the Township

Board approve the draft version of Ordinance # 63 Address Numbers as changed for the following reasons:

- 1) To require that multiple dwellings or places of business on a property be identified for emergency response purposes;
- 2) To require address numbers to be visible from both directions of travel;
- 3) To make editing changes to the ordinance text;
- 4) To repeal Ordinances # 29 and # 29A and replace them with Ordinance # 63.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

C. Zoning Ordinance – Section 18.1 Signs

Throenle stated that the purpose of this item was to inform the Planning Commission that discrepancies were found in the sign ordinance that were in contrast to the Supreme Court findings in the case of *Reed et al v. Town of Gilbert, Arizona, et al*. He said the purpose of bringing this to the Commission was to address language in the ordinance that looked at signs and sign enforcement based on the content on the signs. Current language in the ordinance looks at signs based on content: political, real estate, etc.

Ventura commented, and Meister agreed, that the only portions of the ordinance to look at should be the language that pertains to content. They did not want to look at the remainder of the ordinance, as a lot of time had been invested in writing that section of the ordinance.

Sikkema stated that Throenle should look at the MDOT specifications for signs for guidance, especially to see how MDOT is addressing the sign issue based on the Court decision. He also asked Throenle to look at the MDOT definitions (for items such as off-premise and on premise) to see if the definitions in the Township ordinance align with what MDOT has.

Throenle stated his understanding of direction. He understood his direction should be to match up with MDOT, and to look at the content-based language in the ordinance.

Sikkema suggested the Township manager bring the topic to the corridor meeting discussion.

Throenle will look at other townships, especially Marquette Township, to see how other entities are addressing the issue.

D. Acreage By Zoning District

Throenle stated that in researching an issue for zoning, he did a study of the parcel acreages based on the zoning district in which the parcel was located. He found that there were size discrepancies in every district, and those size differences were causing issues for the use of the properties within those districts. He referred to Dick Arnold's public comments as being an example of the issues within the district. He referred to the acreage breakdown attachment within the packet for the Commissioners to review.

He pointed out that the residential parcel sizes were the ones that triggered the discussion. The size ranges are from less than 1/2 acre to more than 10 acres, and 80

parcels in the R-1 district are greater than 10 acres.

Throenle stated that in 2008 the zoning districts were changed, and impacted all districts, especially in the AF district. The RR-2 parcels were incorporated into the AF district, which requires a minimum of 20 acres for development. If, however, the parcel meets the minimum setbacks for the district, multiple buildings can be placed on the lot, which presents an issue with acreage and district development.

Throenle indicated that one parcel is up for sale in the R-1 district that has a large acreage that the owner is having a difficult time selling because buyers are looking to put horses on that parcel.

Throenle asked for direction on this. He asked if the ordinance need to reflect changes that accommodate the larger parcels within a district.

Deferred public comment was taken at this time.

William Todd, 1075 Ortman Road, spoke concerning his two properties on Ortman Road, and the difficulty he was having in selling those properties. Under the R-1 designation, property owners cannot have horses on the larger acreage.

Deborah Mulcahey, 633 Lakewood Lane – stated to the Commissioners that they should not be surprised that this acreage issue is occurring within the Township. This contributes to the uniqueness of the Township. She said to take a look at the issues that have occurred as a result of the 2008 ordinance, but spot zoning, which is illegal, should not be a solution to the problem.

Jim Dunn, 3210 M-28 – indicated that he did not receive any notification that his property had been changed to agricultural (AF) in 2008. He is not able to resolve his issue with his properties because of this.

Meister asked Throenle if structures could be put on those parcels if they were not already built. Throenle stressed that he is not going to pursue spot zoning on any of the parcels within the Township. He stated that the parcels in question that do not conform are known as lots of record if they were recorded prior to 2008. He said that as long as the setbacks for the district were met for those parcels, you could build on the parcels; otherwise, it is considered a “dead” parcel in that district. Meister asked if Mr. Dunn could build on his property. Throenle responded he could, as long as he was able to meet the setbacks. Throenle pointed out that the parcels were small, which meant that building on those parcels may be difficult because of the 30 foot setbacks around the property and the minimum size requirement for the residence meets the 800 square foot minimum.

Mark Maki, 370 Karen Road – told Mr. Dunn that he could apply for a variance for his property based on the restrictions related to those properties.

Laurie Krzymowski, 741 Lakewood Lane – suggested that Throenle look at form-based code to address the situation within the Township. She indicated that it would be a tremendous amount of work to make it happen, but it would be an option to look at to

correct the situation.

Commissioner discussion took place at this point. Smith pointed out that Dick Arnold has been talking about this issue for a long time. Smith also pointed out that the properties could be a problem in that they could take on the characteristics of the district without being able to sustain those characteristics. He provided an example of building on AF properties that were never really supposed to be AF in character. Meister indicated that his property was originally RR-2, and he was able to raise chickens on that property 20 years ago.

Meister asked how many lots that were affected, and if they could be handled through variances. Sikkema asked how many of the lots affected were built on. Throenle responded he did not know, but could find that information for the next meeting.

Sikkema suggested that the multi-use district was the original priority, and this issue should be addressed in the future.

Ventura shared that the form based code resolution might be an overlay to apply solutions for the additional permitted uses for those non-conforming parcels. He also pointed out to Throenle that the acreage numbers on the attachment did not calculate correctly. Throenle said he would fix that column of number for the next meeting.

Sikkema asked for direction for Throenle to pursue. Some discussion ensued concerning form-based code.

Bohjanen suggested that the districts be broken down to an example of R-1A, R-1B, R-1C, etc. He took exception to the fact that correcting the problem would be considered spot-zoning.

Sikkema asked the Commissioners for direction. He stated it is on the priority list, and asked if the issue should be addressed after the multi-use district was addressed. Commissioners agreed it should be addressed, but wanted to limit the districts to R-1 and AF. Ventura wanted to look at the issue holistically, and address the problem from different vantage points. Throenle suggested a compromise of looking at R-1 and AF. Bohjanen pointed out that the legal notices were posted, even though the individual property owners were not notified. Smith indicated that the County had changed the process so that property owners had to be notified. Additional discussion took place concerning the notification process.

Throenle again addressed the issues with parcel owners not being able to sell, and potential buyers not being able to buy properties based on zoning classification. Smith pointed out that the RR-2 properties were not intended to ever permit the AF scenarios of large number of animals or large number of buildings. Instead, the parcels were intended more for larger residential use. He went on to say the Commission should address the business overlay district first, and then address the AF district as the next item. Other Commissioners agreed.

E. Short Term Rentals

Sikkema introduced the topic by talking about the correspondence that was received and the comments made by the public during the public comment related to the issue. He asked the Commissioners if they wanted to move the item to the priority list. He asked them to consider one of three options: 1) no action, 2) put the item on the priority list, or 3) ask the Board again for direction on the issue.

Bohjanen felt that short term rentals should be put in as conditional use in all zoning districts and have rules for it.

Meister stated that the Commission already had two priorities – the corridor and the AF district discussion. He suggested that it be discussed in January when the Commission discusses the priorities for the year to see where it falls on the priority list.

Ventura pointed out that the issue needs to be as addressed, since it is becoming a growing business question.

Sikkema polled the Commissioners, and they agreed to follow Meister's suggestion. He also reminded the Commissioners to make sure that follow up is completed to ensure the topic is discussed in January.

Smith asked what came up on the survey concerning the short term rental question, as he believes that should be considered when establishing priorities for the year. Throenle stated the question was pulled off the latest survey that went out to Township residents last year. Sikkema asked if more information should be gathered via a survey.

Bohjanen pointed out that in the town hall meeting last year that only two residents spoke on the issue: one was for, and one was against.

Meister said yes, if the Board authorizes the expense for the survey. He said he would like to see if opinions had changed on the subject.

Sikkema asked if the Commissioners would like to be involved in the wording of the questions after staff drafted the questions that would be sent out; Commissioners responded yes.

Throenle stated he would bring to the next meeting or the December meeting the questions for consideration and the costs associated with sending out a survey mailing, as well as the processes and costs associated with analyzing that data.

Bohjanen asked if the survey could be included in the next routine mailing. Throenle stated that the mailing would not be sent out until March. Sikkema followed up with the comment that the priority had to be established first before the survey could be sent out, so the timing might be right to get the question sent out.

Ventura expressed that when looking at the survey data, the Commissioners must also take into the consideration the minority public opinion when considering the issue, and to keep an open mind during the discussion.

VIII. UNFINISHED BUSINESS

None

IX. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane –asked the Commission why bother with another survey as the major area affected would be the waterfront district properties. She stated the survey data gathered in 2013 indicated the residents in the waterfront district did not want short term rentals.

She indicated that the issue has been up for consideration since 2011, and it has not been addressed. She claimed the residential district is being heavily impacted by the issue.

She indicated that it was embarrassing that the issue has not been addressed.

Laurie Krzymowski, 741 Lakewood Lane – stated that there is a short term rental two doors down from her property. Vacationers kept her husband awake until 3:00 am. She pointed out that there are a lot of surgeons, pathologists, and radiologists that live on Lakewood Lane. She asked the Commissioners, by show of hands, if they wanted those professionals to be making a life-changing decision after a lack of sleep. She indicated that renters have also disturbed bedtime for her children.

William Todd, 1075 Ortman Road – asked if there was anything he could do short-term to get his property rezoned to enable him to sell his property. Throenle pointed out there is a small parcel within his property that houses the kennel that is zoned AF, which generates questions as to how to zone the property. Sikkema indicated that he should speak with Throenle to discuss the possibilities of how to approach the rezoning question.

X. COMMISSIONER’S COMMENTS

Bohjanen – indicated he will not be on the Planning Commission after November.

Milton – no comments

Ventura – no comments

Smith – no comments

Meister – no comments

Sikkema – told the Commissioners he was resigning after the December meeting.

DIRECTOR’S COMMENTS

Throenle stated everything he had for consideration was covered during the meeting.

XI. INFORMATIONAL ITEMS AND CORRESPONDENCE

A. Minutes – 08/09/16 Marquette City Planning Commission

B. Minutes – 08/16/16 Marquette City Planning Commission

C. Minutes – 09/07/16 Township Board minutes draft

XII. ADJOURNMENT

Sikkema adjourned the meeting at 9:28 pm.

Submitted by:

Planning Commission Secretary
Eric Meister